

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GIHOSVANI RUIZ, and other
similarly situated individuals,

Plaintiff,

v.

Case No.: 2:19-cv-805-SPC-MRM

GILBERTO DIAZ,

Defendant.

_____ /

ORDER¹

Before the Court are two filings from Defendant Gilberto Diaz's bankruptcy attorney, David Fineman ([Doc. 74](#), [Doc. 76](#)), notifying the Court that the automatic stay remains in effect despite Plaintiff counsel's representation in October 2021 to the contrary. *See* [Doc. 51](#).

Upon review, the automatic stay has remained in effect since July 31, 2020, when Diaz filed for bankruptcy. ([Doc. 37](#)). Therefore, the Court will stay this case and vacate the Clerk's Default. Since Diaz has answered the Complaint, if Plaintiff does not want to proceed with this case, a stipulation of dismissal signed by all parties must be filed. *See* [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(ii\)](#).

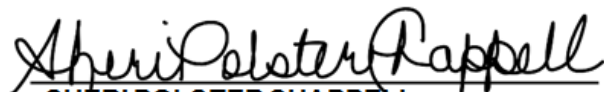
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Accordingly, it is now

ORDERED:

1. This case is **STAYED**. Defendant must notify the Court, in writing, within **seven (7) days** of the bankruptcy proceedings concluding.
2. The Clerk is **DIRECTED** to add a stay flag to the case.
3. The Court's Order striking Diaz's Answer and Defenses and directing the Clerk to enter default ([Doc. 72](#)) and the Clerk's Default ([Doc. 73](#)) are **VACATED**. The Clerk is directed to note on the docket that the Order ([Doc. 72](#)) and Clerk's Default ([Doc. 73](#)) are vacated. The Clerk is further directed to remove the "stricken" notation from [Doc. 17](#).
4. Plaintiff must provide the Court with a status update on the bankruptcy proceedings by **July 25, 2022**, and every ninety days thereafter. To do so, Plaintiff's counsel may need to confer with attorney Fineman.

DONE and ORDERED in Fort Myers, Florida on April 26, 2022.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies:
All Parties of Record
David Fineman, Esq.